

JEAN E. WILLIAMS, Deputy Assistant Attorney General
SETH M. BARSKY, Section Chief
MEREDITH L. FLAX, Assistant Section Chief
DAVIS A. BACKER, Trial Attorney (CO Bar No. 53502)
United States Department of Justice
Environment & Natural Resources Division
Wildlife & Marine Resources Section
Ben Franklin Station
P.O. Box 7611
Washington, DC 20044-7611
Tel: (202) 514-5243
Fax: (202) 305-0275
Email: davis.backer@usdoj.gov

Attorneys for Defendants

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

CENTER FOR BIOLOGICAL DIVERSITY,) No. 4:19-cv-02843-PJH
et al.,)

Plaintiffs,) **STIPULATION TO MODIFY**
v.) **STIPULATED SETTLEMENT**
) **AGREEMENT**

DAVID BERNHARDT, in his official capacity as Secretary of the United States Department of the Interior, et al.,

Defendants.

Pursuant to Local Civil Rules 6-2 and 7-12, Defendants, David Bernhardt, in his official capacity as Secretary of the United States Department of the Interior, and Aurelia Skipwith, in her official capacity as Director of the U.S. Fish and Wildlife Service (“Service”), and Plaintiffs, the Center for Biological Diversity (“Center”) and San Francisco Baykeeper (collectively, the “Parties”) jointly stipulate, subject to the Court’s approval, to a modification of the Parties’ Stipulated Settlement Agreement, ECF No. 28, to extend the deadline for the Service to submit a

1 12-month finding for the Puerto Rico harlequin butterfly to the Federal Register until September
2 25, 2020.

- 3 1. WHEREAS, on February 12, 2020, the Parties filed a stipulated settlement agreement
4 resolving Plaintiffs' remaining claims in the above-captioned case. ECF No. 28.
- 5 2. WHEREAS, on February 18, 2020, the Court entered an order of dismissal, approving the
6 Parties' stipulated settlement agreement. ECF No. 29.
- 7 3. WHEREAS, since the Service implemented a maximum telework policy earlier this spring,
8 Service staffers in the assigned regional offices have been required to take a substantial
9 amount of administrative leave balancing their work and family responsibilities, such as
10 child and elder care. Due to the effects of these COVID-related delays, the Service requests
11 a four-week extension of the current August 31 deadline, until September 25, to review the
12 status of the Puerto Rico harlequin butterfly and submit a 12-month finding to the Federal
13 Register for publication under the ESA, 16 U.S.C. § 1533(b)(3)(B)-(C)(i).

14 NOW, THEREFORE, the Parties respectfully request that the Court approve the requested
15 modification of the Parties' Stipulated Settlement Agreement and enter an order as follows: the
16 deadline for Defendants to review the status of the Puerto Rico harlequin butterfly and submit a
17 12-month finding to the Federal Register for publication is September 25, 2020.

18
19 Dated: August 27, 2020

20 Respectfully submitted,

21 /s/ Amy R. Atwood
22 AMY R. ATWOOD (OR Bar No. 060407)
Center for Biological Diversity
23 P.O. Box 11374
Portland, OR 97211-0374
24 Phone: 503-283-5474
25 Email: atwood@biologicaldiversity.org

JEAN E. WILLIAMS,
Deputy Assistant Attorney General
SETH M. BARSKY,
Section Chief
MEREDITH L. FLAX,
Assistant Section Chief

26 JOHN BUSE (CA Bar No. 163156)
Center for Biological Diversity
27 1212 Broadway, Ste. 800
Oakland, CA 94612

/s/ Davis A. Backer
DAVIS A. BACKER
Trial Attorney (CO Bar No. 53502)
United States Department of Justice

1 Phone: 510-844-7100
2 Email: jbuse@biologicaldiversity.org

3 *Attorneys for Plaintiffs*

4 Environment & Natural Resources Division
5 Wildlife & Marine Resources Division
6 Ben Franklin Station
7 P.O. Box 7611
8 Washington, D.C. 20044-7611
9 Tel: (202) 514-5243
10 Fax: (202) 305-0275
11 Email: davis.backer@usdoj.gov

12 *Attorneys for Defendants*

[PROPOSED] ORDER

The stipulation to modify the terms of the Parties' Stipulated Settlement Agreement is approved and all parties shall comply with its provisions.

IT IS SO ORDERED.

Dated: _____, 2020

By: _____
THE HONORABLE PHYLLIS J. HAMILTON
UNITED STATES DISTRICT JUDGE

ATTESTATION OF CONCURRENCE

In accordance with Civil Local Rule 5-1(i)(3), I hereby attest that I obtained concurrence in the filing for the signatures of all counsel indicated by a conformed signature ("s") within this e-filed document.

/s/ Davis A. Backer
DAVIS A. BACKER
Trial Attorney (CO Bar No. 53502)
United States Department of Justice
Environment & Natural Resources Division
Wildlife & Marine Resources Section
Ben Franklin Station
P.O. Box 7611
Washington, DC 20044-7611
Tel: (202) 514-5243
Fax: (202) 305-0275
Email: davis.backer@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of this filing to the attorneys of record.

/s/ Davis A. Backer

DAVIS A. BACKER
Trial Attorney (CO Bar No. 53502)
United States Department of Justice
Environment & Natural Resources Division
Wildlife & Marine Resources Section
Ben Franklin Station
P.O. Box 7611
Washington, DC 20044-7611
Tel: (202) 514-5243
Fax: (202) 305-0275
Email: davis.backer@usdoj.gov